

*Monique Grimes v. Trooper Mark Bessner and Trooper John Doe*  
USDC-ED of Mich No. 2:17-cv-12860; Judge Gershwin A. Drain

## **EXHIBIT 2**

*Affidavit of Michigan State Police*  
*Captain Greg Zarotney*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

MONIQUE GRIMES, as Personal  
Representative of the Estate of  
Damon Grimes, deceased,

Plaintiff,

v

TROOPER MARK BESSNER,  
and TROOPER JOHN DOE,  
Individually,

Defendants.

No. 2:17-cv-12860

HON. GERSHWIN A. DRAIN

MAG. ELIZABETH A. STAFFORD

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**AFFIDAVIT OF GREG ZAROTNEY**

Capt. Greg Zarotney, being first duly sworn, deposes and states as  
follows:

1. The information set forth in this affidavit is true and accurate, is based on my personal knowledge, and if called as a witness, I could testify competently to the same.

2. I am employed by the State of Michigan, Department of State Police, as a Captain and the Chief of Staff to Col. Kriste Kibbey Etue. I have been a certified police officer with the Department of State Police for 23 years. My educational background consists of a BS from Central Michigan University and a JD from the University of Detroit. I am a member of the State Bar of Michigan.

3. My duties as the Chief of Staff include oversight of the staff of the Office of the Director which includes the Public Affairs Section, the Legislative and Legal Resource Section, the Professional Standards Section (IA), Human Resources, as well as providing counsel and guidance to the Director and Executive Council.

4. I am generally familiar with MSP's evidence collection and preservation policies and techniques.

5. I am also generally familiar with MSP's investigation regarding the incident of August 26, 2017, and death of Damon Grimes.

6. The MSP Investigative Response Team (IRT) was dispatched to investigate the incident pursuant MSP policy. The IRT is a team of experienced investigators from each MSP district who are called upon to investigate critical incidents. (See attachment A, March 2017 IRT Protocol.)

7. Any evidence collected by IRT is documented, appropriately packaged, labeled, and transported to the secure property room of the First District Special Investigation Section where it remains held.

8. The only persons who have access to the aforementioned property room are the commander of the IRT and the property room administrators.

9. The members of the IRT who collected the evidence were trained in proper evidence collection techniques at Basic and Advanced Detective Schools.


10. At the present, to the best of my knowledge, the evidence collection and preservation policies and procedures outlined above are currently being followed in MSP's investigation regarding the incident of August 26, 2017, and death of Damon Grimes.

11. Disclosure of any information regarding the evidence collected in the investigation of the death of Damon Grimes will seriously impede the ongoing criminal investigation.

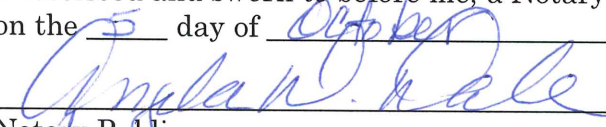
12. While the MSP IRT has worked very closely with the Wayne County Prosecutor's Office (WCPO) on this investigation, the entire case has yet to be submitted for review by the WCPO. Due to the complicated nature of this investigation, the MSP fully expects the WCPO to request additional follow-up including additional witness interviews. Any disclosure of this information at this stage could prejudice the statements of the witnesses.

13. Disclosure of this information may also irreparably damage the criminal prosecution. Information contained in the ongoing and active criminal investigation relating to the actions of the accused could certainly prejudice potential jurors and make a fair criminal trial not possible in Wayne County Michigan.

14. Most, if not all information sought by plaintiff will be provided by the MSP once the investigation and/or prosecution have concluded pursuant to an existing FOIA request by plaintiff's counsel.

  
\_\_\_\_\_  
Greg Zarotney  
Captain  
Michigan Department of State Police

Subscribed and sworn to before me, a Notary Public,  
on the 5 day of October, 2017.

  
\_\_\_\_\_  
Notary Public  
Ingham County, Michigan

My commission expires: 1/11/2020



## **ATTACHMENT A**



UD-040 (10/02)  
MEMORANDUM

## STATE OF MICHIGAN DEPARTMENT OF STATE POLICE

**DATE:** March 13, 2017

**TO:** Field Services Bureau Personnel

**FROM:** Lt. Col. W. Thomas Sands, Deputy Director  
Field Services Bureau

**SUBJECT:** Investigative Response Team Protocol

### 1. OBJECTIVE

Establish an Investigative Response Team (IRT) with consistent protocols for the criminal investigation of Michigan State Police (MSP) officer-involved shootings and critical incidents.

### 2. DEFINITIONS

- A. Officer-involved Shooting: An incident where a law enforcement officer discharges a firearm at another person in the course of his or her lawful duties, resulting in injury.
- B. Critical Incident: Any officer action resulting in serious injury or death of a departmental member or other person.
- C. Involved Officer: A law enforcement officer who discharges his or her firearm at another person in the course of his or her duties.
- D. Witness Officer: Law enforcement officer who was on scene, or responded to the scene of an officer-involved shooting, but did not fire his or her firearm.
- E. Companion Officer: A certified law enforcement officer assigned to provide support to an involved officer following a critical incident.
- F. Internal Investigation: An investigation in which the focus is on whether a law enforcement officer followed departmental policy and procedure in carrying out his or her lawful duties.
- G. Criminal Investigation: An investigation in which the focus is on whether any individual involved in an incident bears criminal responsibility. The results of the investigation are then presented to the prosecutor for his or her review and charging decision(s).
- H. Lead Investigator: The district detective first lieutenant or his or her designee.
- I. Investigative Response Team: A pre-determined group of specially trained individuals that are assigned from a different district who investigate MSP officer involved shootings and critical incidents.
- J. Investigative Response Team Leader: A district detective first lieutenant or their designee from an adjoining or outside district of the incident venue who will serve as the lead investigator on MSP officer involved shootings and critical incidents.

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### 3. INVESTIGATIVE RESPONSE TEAM RESPONSIBILITIES

The mission of the Investigative Response Team (IRT) is to provide an independent investigation of the officer involved shootings and critical incidents involving MSP departmental members. The IRT shall be activated in all MSP officer involved shootings or critical incidents involving serious injury or death. The IRT can be activated for other Non MSP officer involved shootings or critical incidents at the discretion of the district first lieutenant and affected district command staff.

- A. IRT investigators will respond to a pre-determined location established by the investigative response team leader.
- B. IRT investigators will review the crime scene and be briefed as to the status of the investigation by on scene personnel.
- C. After a thorough review of the scene, the IRT Team Leader shall assume operational command and will be responsible for all investigative follow up and coordination.
- D. When the IRT investigators have compiled their reports the IRT Team Leader will present the investigative findings to the local prosecutor's office in conjunction with the local district detective first lieutenant or their designee.

### 4. MSP INVOLVED OFFICER RESPONSIBILITIES

The involved officer in an officer-involved shooting should make every effort to:

- A. Effect arrest, if appropriate, and ensure the scene is secure.
- B. Ensure emergency medical care is provided to any injured individuals.
- C. Contact dispatch and relay appropriate information as to scene safety and security.
- D. Notify MSP Operations or request dispatch notifies Operations.
- E. Provide scene security and ensure evidence preservation until relieved by a supervisor.
- F. Identify any potential witnesses and provide pertinent information to the lead investigator.
- G. Provide the following Public Safety information to the MSP Supervisor on scene
  - a. The extent of any known injuries and whether appropriate medical assistance has been rendered/summoned.
  - b. If there is a criminal suspect at large.
  - c. If anyone is under arrest and the charge.
  - d. The direction of shots that were fired.
- H. Remain on scene until relieved by the post commander or lead investigator.
- I. Notify lead investigator of any alterations made to the crime scene (e.g., victim moved, weapons seized).
- J. Officers are reminded the best practice is not to discuss the actual incident with witnesses or companion officers.

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5. ON-DUTY SUPERVISOR RESPONSIBILITIES—MSP OFFICER-INVOLVED SHOOTING AND CRITICAL INCIDENTS

The on-duty supervisor in an officer-involved shooting should:

- A. Immediately respond to the scene and ensure post/section command is notified.
- B. Ensure medical personnel are enroute and that appropriate medical care is administered to injured individuals.
- C. Consider having the involved officer checked by on-scene medical personnel.
- D. Assign an officer to escort any injured individuals to the hospital where the officer is to remain until relieved by a member of the investigative team.
- E. Implement crime scene protocols to ensure the preservation of evidence and scene security.
- F. Ensure in-car and body camera footage is preserved for investigating officers. Secure the involved officer(s) vehicle(s) and take control of the keys to preserve evidence for investigators.
- G. Ensure any fired weapons remain holstered until collected by the post/section commander or lead investigator. (Long guns should be secured in the trunk of the supervisor's vehicle until turned over to the lead investigator.)
- H. Contact MSP Operations and request notification of the Office of Behavioral Science.
- I. Upon direction from the lead investigator or post/section commander, ensure the involved officer is transported to a secure location by a designated companion officer. Consideration should be given to encouraging the officer to choose his or her companion officer.
- J. Ensure involved officer(s) remain on-duty until relieved by the detective first lieutenant or designee.

6. POST OR SECTION COMMANDER RESPONSIBILITIES—MSP OFFICER-INVOLVED SHOOTING AND CRITICAL INCIDENTS

The post or section commander in an officer-involved shooting and critical incidents should:

- A. Ensure MSP Operations is notified of pertinent information.
- B. Immediately respond to either the scene or location of involved officer.
- C. Ensure post is adequately staffed to perform necessary law enforcement functions throughout post area.
- D. Ensure the district commander, or his or her designee, is notified of incident details.
- E. Ensure contact has been made with the Office of Behavioral Science and arrange psychological support for involved officer.
- F. If on scene before the lead investigator, seize and secure involved weapon(s).

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- G. If on scene before the lead investigator, seize and secure all state issued electronic devices from the involved member(s).
- H. Ensure the involved officer has available resources to contact immediate family members if desired.
- I. In accordance with MSPTA contract the post commander shall ensure a blood and alcohol screen is conducted in a timely manner.

7. DETECTIVE FIRST LIEUTENANT RESPONSIBILITIES MSP OFFICER-INVOLVED SHOOTING AND CRITICAL INCIDENTS

The district detective first lieutenant or their designee, who supervises the district in which the officer involved shooting occurred shall respond to the scene of an MSP officer-involved shooting and critical incidents. The district first lieutenant or their designee will advise operations to activate the Investigative Response Team. If activated, the district detective first lieutenant or their designee will assign additional detectives from work sites outside the involved officer's work area. The district detective first lieutenant shall be responsible for securing the scene, evidence and individuals directly related to officer involved shooting or critical incident. Upon arrival of the IRT Leader the district first lieutenant or their designee will brief the IRT on the actions taken to date. After briefing the IRT the local district first lieutenant or their designee will serve as a conduit for local resources. If the IRT is not activated for a critical incident the district first lieutenant or their designee will assign investigative responsibilities and assume the role of the lead investigator.

8. INVESTIGATING NON-MSP OFFICER-INVOLVED SHOOTING AND CRITICAL INCIDENTS

When a Non MSP agency requests assistance from the MSP to investigate an officer-involved shooting or critical incident, the following protocol should be followed:

- A. Requests for assistance on an officer-involved shooting or critical incident from another agency shall be directed to the district detective first lieutenant.
- B. The district detective first lieutenant shall notify the district commander, or his or her designee, of all requests to investigate an officer-involved shooting or critical incident.
- C. The district detective first lieutenant will assign detectives to the investigation. Consideration should be given to assigning detectives from outside the post area.
- D. The MSP Crime Lab shall be utilized to process the scene. Any deviation from this requires approval from the district commander, or his or her designee.
- E. If MSP agrees to be the lead investigator in an officer-involved shooting or critical incident involving another agency, all evidence related to the shooting should be collected by MSP personnel and if applicable, analyzed by the MSP Crime Lab.
- F. The requesting agency shall be notified by the district detective lieutenant that the criminal investigation needs to be conducted prior to, and separate from, any internal investigation.
- G. PIO duties for a non-MSP officer-involved shooting or critical incidents should be assigned after consultation with the requesting agency.

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9. INVESTIGATIVE RESPONSE TEAM LEADER RESPONSIBILITIES:

The Investigative Response Team detective first lieutenant should:

- A. Collect and secure involved weapon(s) and turn over to Forensic Science Division laboratory personnel for forensic analysis.
- B. Assess whether any additional evidence needs to be collected from involved officer; i.e., clothing, equipment, additional firearms/magazines.
- C. Ensure that the involved officer is photographed to document the officer's appearance and physical condition, if applicable.
- D. Contact the regional Forensic Science Division commander and determine if laboratory personnel should respond to and process the scene. Any deviation from this requires approval from the district commander. An assisting detective sergeant should be assigned as a liaison with laboratory personnel during scene examination and processing.
- E. Contact a department accident investigator and request Total Station for scene mapping, if appropriate.
- F. Contact the Biometrics Identification Division Audio/Video Analysis Unit and request the 3D imaging support, if appropriate.
- G. Have aerial photographs taken using resources from the Aviation Unit if appropriate.
- H. Make contact with the medical examiner and ensure an autopsy is scheduled to be conducted by a forensic pathologist for any deceased individuals and assign an investigator to attend.
- I. Identify all witness officers and ensure they are interviewed as soon as logistically possible. Witness officers should complete a written report as soon as reasonably possible.
- J. Designate the public information officer's responsibilities and consult with the Public Affairs Section for media release.
- K. Ensure updates are provided to the county prosecutor on the investigation status and progression.
- L. Provide investigator contact information to the involved officer.

10. INVESTIGATIVE RESPONSE TEAM TRAINING REQUIREMENTS

- A. All IRT investigators shall be Special Investigation Section personnel that have attained the rank of detective sergeant, detective lieutenant or detective first lieutenant.
- B. All IRT investigators shall attend specialized training in police involved shootings.
- C. At a minimum all IRT investigators shall attend the Public Agency Training Council's Criminal Investigation of Police Involved Shootings and the Force Science Institute Ltd.'s training course on action and reaction dynamics.
- D. All IRT members shall attend annual refresher training and meetings.

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#### 11. OTHER CONSIDERATIONS

- A. Criminal investigations should be conducted prior to, and separate from, departmental internal investigations. Officers providing statements for the criminal investigation shall be afforded all constitutional and statutory protections. Criminal investigation interviews are conducted separately from Garrity interviews. While an officer may be compelled to answer during a Garrity interview, the officer may not be compelled to answer during a criminal investigatory interview.
- B. All interviews of witnesses or other involved persons shall be recorded, if applicable.
- C. Involved officers will be permitted to watch recorded in car video or body camera footage from their vehicle or person, of the incident prior to completing a written report or prior to being interviewed. Video obtained from any other source, including other on scene officers shall not be viewed unless approved by the district commander or his designee.
- D. The involved officer will be placed on critical incident leave for a minimum of 24 hours. The involved officer will be asked to complete a written report of the original incident and/or will be asked to take part in an interview by the investigative team. In a criminal investigation, statements shall not be compelled, either by policy or the investigating team.
- E. Consideration should be given to presenting the case to the appropriate prosecuting attorney through a case PowerPoint and verbal presentation.
- F. At a pre-determined time and location by the IRT team leader and after the final investigation has been presented to the prosecutor, all investigators who provided any assistance regarding the investigation and the other district first lieutenants or their designee shall meet to conduct an after action review of the incident investigation.